

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Philip H. Shum,

Plaintiff,

VS.

American Sterling Bank; *et al.*,

Defendants.

Case No.: 2:14-cv-0973-GMN-PAL

## ORDER

Pending before the Court is Defendants' Motion to Expunge. (ECF No. 29). Though the deadline passed on July 6, 2015, *pro se* Plaintiff Philip H. Shum has not filed a Response.

This case centers upon Plaintiff's allegations of mortgage fraud against Defendants American Sterling Bank, Federal Home Loan Mortgage Corporation, and Mortgage Electronic Registration Systems, Inc. (Compl., ECF No. 1-1). As relief for the claims in his Complaint, Plaintiff requested quiet title to the property located at 4233 Hebron Drive, Las Vegas, NV 89147. (*Id.* at ¶ 31). On February 19, 2015, the Court dismissed the Complaint with prejudice. (Order, ECF No. 27). In the instant Motion, Defendants request that the *lis pendens* recorded against the disputed property be expunged.

Upon a motion, the Court must dissolve a *lis pendens* if the recording party fails to demonstrate (a) a likelihood of prevailing in the action or (b) a fair chance of success and serious hardship that could result from a transfer of the property. Nev. Rev. Stat. 14.015(3); *see also Levinson v. Eighth Judicial Dist. Court*, 857 P.2d 18, 20-21 (Nev. 1993).

Here, Plaintiff has failed to file a Response, despite the fact that the deadline expired on July 6, 2015. Thus, pursuant to Local Rule 7-2(d), the Court finds that Plaintiff has consented to the granting of the Motion. *See* D. Nev. R. 7-2(d) (“The failure of an opposing party to file

1 points and authorities in response to any motion shall constitute a consent to the granting of the  
2 motion.”). Moreover, the Court finds that expunction of the *lis pendens* is warranted because  
3 all of Plaintiff’s claims have been dismissed with prejudice. *See, e.g., Wensley v. First Nat.*  
4 *Bank of Nevada*, 874 F. Supp. 2d 957, 968 (D. Nev. 2012) (expunging a *lis pendens* after  
5 dismissing a complaint with prejudice).

6 Accordingly,

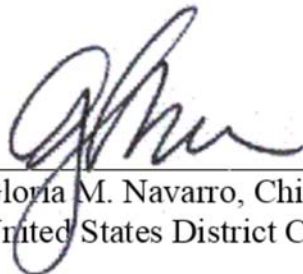
7 **IT IS HEREBY ORDERED** that the Motion to Expunge, (ECF No. 29), is  
8 **GRANTED.**

9 **IT IS FURTHER ORDERED** that the notice of *lis pendens* filed and recorded by or on  
10 behalf of Plaintiff Philip Shum upon the real property located at 4233 Hebron Drive, Las  
11 Vegas, NV 89147 (APN # 163-22-112-010) with the Clark County Recorder’s Office as  
12 instrument number 201405220002150 is hereby cancelled and expunged.

13 **IT IS FURTHER ORDERED** that Defendants shall record a copy of this Order with  
14 the Clark County Recorder’s Office within seven (7) days of its issuance.

15 **DATED** this 28th day of July, 2015.

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Gloria M. Navarro, Chief Judge  
United States District Court